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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,850	12/19/2001	Andrew Dugan	COS98029C1	2399
25537	7590	06/14/2005	EXAMINER	
MCI, INC TECHNOLOGY LAW DEPARTMENT 1133 19TH STREET NW, 10TH FLOOR WASHINGTON, DC 20036			YANG, LINA	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,850

Applicant(s)

DUGAN ET AL.

Examiner

Lina Yang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 1997.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/19/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/19/01, 6/21/02, 8/19/02, 11/18/02, 12/26/02, 5/21/03, 8/22/03, 1/29/04, 4/18/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

1. The drawings are objected to because the reference numbers shown in fig 2 are not matching with the reference numbers in the specification. Specifically, reference numbers **58, 60, 62, 64, 66, 68** should be changed to **60, 62, 64, 66, 68, 70** according to the specification on page 5 lines 22-33. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 11-18 of current application (serial number 10/026850) are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 20-25 of U.S. Patent No. 6,425,005 B1. This is a double patenting rejection. More specifically:

(1)claim 20 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claim 11 in the current application;

(2)claim 21 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claim 12 in the current application;

(3)claim 22 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claim 13 in the current application;

(4)claim 23 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claims 14 and 15 in the current application;

(5)claim 24 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claims 17 and 18 in the current application;

(6)claim 25 of U.S. Patent No. 6,425,005 B1 discloses all limitations of the claim 16 in the current application;

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 19-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20-25 of U.S. Patent No. 6,425,005 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 19-26 of current application disclose a computer program product for implementing the method claims 20-25 of U.S. Patent No. 6,425,005 B1. Therefore, it would have been obvious to one having ordinary skill in the art to implement the method (claims 20-25 of U.S. Patent No. 6,425,005 B1) as a computer readable code in a computer usable medium in order to enable the computer system to manage resources in a network.

4. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,418,461 B1 in view of Bonnell et al. U.S. Patent No. 5,655,081.

Claim 13 of U.S. Patent No. 6,418,461 B1 discloses all the limitations of the claim 1 in the current application ("a logical platform" is "a service layer execution

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environment" as both are defined as "virtual machine"), except one limitation: "a network management system agent coupled to the intelligent call processor". However, it is well known and expected in the art to have network management system agents running in the network nodes coupled to the processor to monitor and managing the resources on the network nodes and communicate with the central management system, as disclosed by Bonnell et al. U.S. Patent No. 5,655,081(col. 6 lines 42-47). Therefore, it would have been obvious to one of ordinary skill in the art to include a network management system agent coupled to the intelligent call processor in the node of claim 13 of U.S. Patent No. 6,418,461 B1 in order to implement a more efficient network management system.

5. Regarding claim 2, claim 23 of U.S. Patent No. 6,418,461 B1 discloses all the limitations in claim 2 of the current application.

6. Claim 3 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,418,461 B1 in view of Srinivasan. U.S. Patent No. 5,185,782.

Claim 13 of U.S. Patent No. 6,418,461 B1 differs from claim 3 of current application in that claim 13 does not specifically disclose to include an adjunct processor coupled to the intelligent call processor. However, it is well known and expected in the art to use an adjunct processor to capture and store the calling information, as disclosed by Srinivasan (fig. 2, adjunct processors 107 and database

adjunct processors 108; col. 3 lines 50-68; col.4 lines 1-13). Therefore, it would have been obvious to one of ordinary skill in the art to couple an adjunct processor to the intelligent call processor to provide various types of support, such as store the management information, to the intelligent call processor.

7. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,418,461 B1.

Claim 13 of U.S. Patent No. 6,418,461 B1 differs from claim 4 of current application in that claim 13 does not specifically teach to have a wide area network coupled to the node. However, examiner would like to take an official notice that connecting a node to a WAN is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art to couple a wide area network to the node with the motivation being to provide the node with access to a WAN.

8. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,418,461 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claim merely broadens the scope of the patented claim by coupling the resource complex to customer premises equipment. Therefore, it would have been obvious to one having ordinary skill in the art to couple the resource complex to customer premises equipment to provide the management services to the customer and make profit.

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9. Regarding claim 6, claim 13 of U.S. Patent No. 6,418,461 B1 discloses all the limitations in claim 6 of the current application.

10. Regarding claim 7, claim 5 of U.S. Patent No. 6,418,461 B1 discloses all the limitations in claim 7 of the current application.

11. Regarding claim 8, claim 1 of U.S. Patent No. 6,425,005 B1 discloses all the limitations in claim 8 of the current application.

12. Regarding claim 9, claim 1 of U.S. Patent No. 6,418,461 B1 discloses all the limitations in claim 9 of the current application.

13. Claim 10 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,418,461 B1 in view of Webber et al. U.S. Patent No. 5,367,698.

Claim 1 of U.S. Patent No. 6,418,461 B1 differs from claim 10 of current application in that claim 13 does not specifically disclose that the network management system further comprises a centralized service administration component. However, it is well known and expected in the art to use a centralized service administration component in a network management system to provide central management and administration while the network services themselves can be distributed as disclosed by Webber (col. 17 lines 31-36). Therefore, it would have been obvious to one of

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ordinary skill in the art to include a centralized service administration component in the network management system to improve the performance and provide high efficient management.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lina Yang whose telephone number is (571)272-3151. The examiner can normally be reached on 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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